



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,143	09/30/2003	Young-Woo Lee	1293.1829	3823
21171 7590 08/10/2007 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER PSITOS, ARISTOTELIS M	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 08/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/673,143	Applicant(s) LEE ET AL.	
	Examiner Aristotelis M. Psitos	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 9-14, 22-26 and 34-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 15-21 and 27-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' response of 2/27/07 has been considered with the following results.

Information Disclosure Statement

The IDS filed 9/30/03 has been reviewed and made of record.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 27-33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims attempt to recite a data structure, however, such not claimed in a computer readable medium are descriptive material per se, see Warmerdam, 33F.3d at 1361.

Applicants are attempting to define functionally descriptive material, however, as disclosed in paragraph 54 of the corresponding PGPub 2004/0090895 applicants are describing non-statutory subject matter for instance the carrier wave.

The examiner recommends canceling any subject matter in the specification drawn to non-statutory subject matter as well as reciting/depicting the claims as a/an (optical) storage medium comprising

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 27-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s),

Art Unit: 2627

at the time the application was filed, had possession of the claimed invention. The examiner cannot readily find clear support for the phrase "computer readable medium" in the remainder of the specification. Further elaboration is respectfully required.

As far as the claims recite positive limitations, the following rejections are made.

Response to Arguments

Applicant's arguments filed 2/27/07 have been fully considered but they are not persuasive, for the reasons stated above.

As far as the claims recite positive limitations, the following rejections are made.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 15, 16, 18, 27 and 28, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogihara – US 6868051 or its equivalent EP 1191529.

The following analysis is made:

Claim 1

Ogihara

A recording medium type discriminating apparatus,

abstract/title

comprising:

see figs. 1 & 2

a radio frequency (RF) amplifier to output

description thereof

a signal based on light reflected from a

element 109

recording medium;

a wobble amplitude detector to detect an

above figures/element 118

amplitude of a wobble formed on the recording

Art Unit: 2627

medium based on an output signal of the RF amplifier; and

a system controller to discriminate a recording medium type controller 105
of the recording medium by
comparing the wobble amplitude with a reference value.

As analyzed above the above system discriminates medium type by having the appropriate RF output signal detected, a wobble signal detector ability and appropriate comparison.

The method limitations of claim 15 are met when the above system operates.

With respect to claim 34, the record medium provided is interpreted to have computer readable code thereon.

With respect to claim 2, as disclosed such is present – push-pull wobble detector.

With respect to claims 3,4,5,16,18 and 28 and 30 such are inherently present, i.e., – see discussion starting at col. 3 line 13 as well as the description of figure 3.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are not persuasive. As elaborated upon in the description of figure 3, amplitude of the detected wobble signal is most certainly present, and a detection of the level thereof is performed. Inherently the level is detected against some reference value, else there would be no output.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 6-8,17, 19-21, 29,31-33 rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to the claims as stated in paragraph 3 above, and further in view of Morita.

Art Unit: 2627

With respect to the amplitude value regarding dvd-rw, such is further disclosed in Morita – see for instance col. 14, lines 34 plus.

With respect to dvd+rw, such is of course an agreed upon range (once noting the amplitude range for the dvd-rw discussed in Morita.

It would have been obvious to modify the base system of Ogihara with the above teaching from Morita in order to set an appropriate threshold value, or range of values that are indicative of the breaking point between the dvd-rw and dvd+rw amplitude. Selection of such is an optimization of the system and obvious predicated upon the well-known dvd-rw amplitude range.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are not persuasive for the reasons stated above with respect to the parent claim.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1,5,15,16,27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Hwang ('443).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Art Unit: 2627

6. Claims 6-8,17, 19-21, 29,31-33 rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to the claims as stated in paragraph 5 above, and further in view of Morita.

With respect to the amplitude value regarding dvd-rw, such is further disclosed in Morita – see for instance col. 14, lines 34 plus.

With respect to dvd+rw, such is of course an agreed upon range (once noting the amplitude range for the dvd-rw discussed in Morita.

It would have been obvious to modify the base system of Hwang with the above teaching from Morita in order to set an appropriate threshold value, or range of values that are indicative of the breaking point between the dvd-rw and dvd+rw amplitude. Selection of such is an optimization of the system and obvious predicated upon the well-known dvd-rw amplitude range.

Claim Rejections - 35 USC § 103

7. Claims 1,2,15 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyazaki et al and further in view of either JP 2002-285582 or Choi.

The examiner relies upon the US patent equivalent to Hwang as cited above as the English translation of the above noted JP document. No copy of the JP document is provided hereto.

The Watanabe system describes amplitude detection capability for the wobble signal. Furthermore, as noted in col. 23 starting at line 47 such detection can distinguish/discriminate between various DVD discs. There is no clear depiction of a ref. value comparison.

Nevertheless, the JP document (see the English translation equivalent) provides for such a capability – see the above amplitude detection capability thereof.

Alternatively, Choi discloses in this environment the ability of performing a disc type detection ability predicated upon an amplitude evaluation – see for instance the disclosure starting at col. 1 line 35.

Although such is drawn to the amplitude of the information signal, as noted in the base reference, amplitude of the wobble signal is relied upon.

Art Unit: 2627

It would have been obvious to modify the base system of Watanabe with the above noted teaching from either of the secondary references, in order to provide for an appropriate amplitude comparison/detection capability using already developed signal processing capability known in this environment.

8. Claims 6-8,17, 19-21, 29,31-33 rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to the claims as stated in paragraph 7 above, and further in view of Morita.

With respect to the amplitude value regarding dvd-rw, such is further disclosed in Morita – see for instance col. 14, lines 34 plus.

With respect to dvd+rw, such is of course an agreed upon range (once noting the amplitude range for the dvd-rw discussed in Morita.

It would have been obvious to modify the base system as stated in paragraph 7 above, with the above teaching from Morita in order to set an appropriate threshold value, or range of values that are indicative of the breaking point between the dvd-rw and dvd+rw amplitude. Selection of such is an optimization of the system and obvious predicated upon the well-known dvd-rw amplitude range.

9. Claims 3,4,18 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 2, 15, and 27 and above, and further in view of Park et al ('997).

With respect to the limitations of these claims, such detection capability is well known in the art – see for instance the detection capability disclosed in Park et al.

It would have been obvious to modify the base system as relied upon above in paragraph 7 and further modify such with such a detection system, motivation is to clearly depict the detected peaks.

10. Claims 5,16,17,28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 2, 15, and 27 and above, and further in view of Schep ('467) and both further considered with Park et al ('997).

With respect to the limitations of these claims,

a) Schep discusses the variations/differences in frequencies with respect to the DVD (+/-) types of discs.

b) peak/peak detection capability is well known in the art – see for instance the detection capability disclosed in Park et al.

It would have been obvious to modify the base system as relied upon above in paragraph 7 and further modify such with such a detection capabilities, motivation is to clearly depict differences between dvd (+/-) discs as well as the detected peaks.

Conclusion

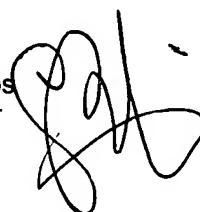
Applicants' are reminded of their duty of disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-F: 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos
Primary Examiner
Art Unit 2627



Application/Control Number: 10/673,143

Page 9

Art Unit: 2627

AMP